

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Rolf Banholzer *et al.*

Examiner: Janet L. Coppins

Serial No.: 09/961,822

Group Art Unit: 1625

Filed: September 24, 2001

Docket: 1/1148

For: CRYSTALLINE TIOTROPIUM BROMIDE MONOHYDRATE, PROCESSES FOR
THE PREPARATION THEREOF, AND PHARMACEUTICAL COMPOSITIONS

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48
OR, IN THE ALTERNATIVE, UNDER 37 C.F.R. § 1.181 OR 37 C.F.R. § 1.182
TO CORRECT A MISTAKE IN THE INVENTORSHIP

Dear Sir:

Applicants hereby petition under 37 C.F.R. § 1.48 to correct the inventorship of the above-identified application, or in the alternative, under 37 C.F.R. § 1.181 or 37 C.F.R. § 1.182 to correct an Office mistake in the inventorship. A Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114 and the executed Declaration has been filed herewith.

It was recently discovered that the Office has improperly dropped one of the named inventors (Andreas Mathes) from the above application and this is the error which is sought to be corrected, whether under the provisions of 37 C.F.R. §§ 1.48, 1.181, or 1.182 (given the factual circumstances set forth below, it is unclear what provision would apply). The eight inventors are correctly listed on the Application Data Sheet filed with the instant application (a copy of which is attached hereto). Applicants submitted an Assignment for recordation that was executed by all eight inventors (a copy of which is attached hereto).

By this Petition to Correct Inventorship and complete Declaration executed by all eight inventors concurrently filed herewith by facsimile, applicants will correct the inventorship in the patent to be issued to reflect the correct inventorship.

Statement of Facts

In response to a Notice to File Missing Parts dated October 22, 2001, in the instant application, applicants submitted on December 7, 2001, a signed Declaration that was apparently missing the final page of Declaration signed by Andreas Mathes. It should be emphasized that the "Additional Inventor(s) Supplemental Sheet" of the Declaration indicated "Page 1 of 3", "Page 2 of 3", however, the sheet "Page 3 of 3" listing Andreas Mathes was apparently not submitted, although the complete Declaration was presented to the eight inventors. Despite this discrepancy and an obviously incomplete Declaration, the Office never notified applicants of the missing page of the Declaration.

Due to the treatment of the mail to destroy anthrax, applicants received and responded to a Request for Substitute Papers on March 26, 2002, and submitted copies of the papers previously submitted (that is, also apparently missing the final page of Declaration signed by Andreas Mathes).

Rather than receive a Notice of Incomplete Reply to the Notice of Missing Parts (as would be expected with the absence of "Page 3 of 3" Additional Inventor(s) Supplemental Sheet in the Declaration submission), the Office apparently incorrectly amended the inventorship to drop Andreas Mathes from the list of inventors. This was not intended by the eight applicants, all of whom executed the Declaration.

Since all the eight applicants did in fact execute the proper Declaration (the last page of which was apparently not submitted to the Office), it is readily apparent that there was no deceptive intention on their part and it is not considered necessary under these facts to submit a declaration executed by the applicants (although one will be submitted if requested by the Office) affirming that they executed in October 2001 the Declaration that is herewith submitted, since the Declaration itself testifies to that fact.

The undersigned, who submitted the incomplete Declaration to the Office on December 7, 2001, and March 26, 2002, herewith affirms that such incomplete submission was done without deceptive intention. This absence of deceptive intention is further supported by (1) the Application Data Sheet filed with the application listing all eight inventors, (2) the obviousness of a missing "Page 3 of 3" in the submitted Declaration that reveals it is incomplete, and (3) the Assignment filed with the U.S.P.T.O. listing all eight inventors.

Applicant herewith encloses the complete five page Declaration, including the previously unsubmitted last page signed by Andreas Mathes. Please ensure Andreas Mathes and, indeed, all eight inventors are listed on the issued patent. His information is as follows:

Given Name:	Andreas
Family Name:	Mathes
Postal Address Line One:	Am Sporfeld 2
City:	Ockenheim
State or Province:	Germany
Postal or Zip Code:	55437
Citizenship Country:	DE

The correct inventorship for all eight inventors is found in the Application Data Sheet filed with the original application.

Fee

The fee for this Petition is \$130.00 under 37 C.F.R. § 1.17(h) or 37 C.F.R. § 1.17(i). The Commissioner is hereby authorized to charge this and any other fee required for this Petition or any other paper accompanying this Petition to Deposit Account No. 02-2955. Applicants also request a refund of the paid issue fee if such refund is authorized, with the funds to be credited to the above noted Deposit Account.

Please advise me immediately if you require anything further.

**Certificate of Facsimile Transmission
Under 37 C.F.R. § 1.8(a)**

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office at Fax No. (703) 308-6916 on May 5, 2003. 703-305-1013

Timothy X. Witkowski
Timothy X. Witkowski
Registration No. 40,232

5-5-2003

Dated

Respectfully submitted,

Timothy X. Witkowski
Timothy X. Witkowski
Registration No. 40,232
Attorney for Applicants

BOEHRINGER INGELHEIM CORPORATION
Patent Department
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT 06877
Telephone: (203) 798-4310
Facsimile: (203) 798-4408

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Examiner: Janet L. Coppins

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Alexandria, VA 22313-1450

COMMUNICATION ESTABLISHING RIGHT OF ASSIGNEE
TO TAKE ACTION UNDER 37 C.F.R. § 3.73(b)

Dear Sir:

In connection with the attached Petition, applicants herewith establish the right of the assignee under 37 C.F.R. § 3.73(b) to take action in the above application.

Boehringer Ingelheim Pharma KG is the Assignee of Record of the entire right, title and interest in and to the above-identified application as set forth in the attached Assignment. The Assignment was submitted for recordation in the U.S. Patent and Trademark Office on December 7, 2001, and again on March 26, 2002, in response to a Request for Substitute Papers. Applicants have not yet received a recordation notice from the Office. The Assignment was executed by all eight inventors, including Andreas Mathes, who was incorrectly dropped from the list of inventors by the Office..

The undersigned is authorized to act on behalf of the assignee.

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Timothy X. Witkowski
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Registration No. 40,232

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Dated

Respectfully submitted,

Timothy X. Witkowski

Timothy X. Witkowski
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Attorney for Applicants

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Telephone: (203) 798-4310
Facsimile: (203) 798-4408

Please type a plus sign (+) inside this box →

PTO/SB/01 (12-97)

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Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

Declaration Submitted with Initial Filing Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	1/1148
First Named Inventor	Rolf Banholzer
COMPLETE IF KNOWN	
Application Number	09 / 961,822
Filing Date	September 24, 2001
Group Art Unit	
Examiner Name	

As a below named Inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

CRYSTALLINE TIOTROPIUM BROMIDE MONOHYDRATE, PROCESSES FOR THE PREPARATION THEREOF, AND PHARMACEUTICAL COMPOSITIONS

the specification of which

(Title of the Invention)

 is attached hereto

OR

 was filed on (MM/DD/YYYY)

as United States Application Number or PCT International

Application Number and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	Certified Copy Attached? NO
100 50 621.6	DE	10/12/2000	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

 Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.
60/249,349	11/16/2000	

(Page 1 of 2)

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (If applicable)

Additional U.S. or PCT International application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Customer Number → Place Customer Number Bar Code Label here
 OR
 Registered practitioner(s) name/registration number listed below

Name	Registration Number	Name	Registration Number
Robert P. Raymond	25,089	Susan K. Pocchiarl	45,016
Alan R. Stempel	28,991	Philip I. Datlow	41,482
Mary-Ellen M. Devlin	27,928	Timothy X. Witkowski	40,232
Anthony P. Bottino	41,629		

Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to: Customer Number or Bar Code Label 28501 OR Correspondence address below

Name			
Address			
Address			
City	State	ZIP	
Country	Telephone		Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: A petition has been filed for this unsigned inventor

Given Name (first and middle if any)	Family Name or Surname		
Rolf	BANHOLZER		

Inventor's Signature	<i>Rolf Bannholzer</i>			Date	10-23-04
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Residence: City	Stuttgart	State	Country	Germany	Citizenship	DE
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Post Office Address	Pfullinger Strasse 55					
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Post Office Address	City	Stuttgart	State	ZIP	70597	Country	Germany
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Additional Inventors are being named on the 3 supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto

PTO/SB/02A (3-97)

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet
Page 1 of 3

Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])		Family Name or Surname				
Peter		SIEGER				
Inventor's Signature	<i>Peter Sieger</i>					Date <i>Oct. 26, 2001</i>
Residence: City	Mittelbiberach	State	Country	Germany	Citizenship	DE
Post Office Address	Wielandstrasse 27					
Post Office Address						
City	Mittelbiberach	State	ZIP	88441	Country	Germany
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])		Family Name or Surname				
Christian		KULINNA				
Inventor's Signature	<i>Christian Kulinna</i>					Date <i>Oct. 24, 2001</i>
Residence: City	Mainz	State	Country	Germany	Citizenship	DE
Post Office Address	Eduard-Frank-Strasse 11					
Post Office Address						
City	Mainz	State	ZIP	55122	Country	Germany
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])		Family Name or Surname				
Michael		TRUNK				
Inventor's Signature	<i>Michael Trunk</i>					Date <i>Oct. 23, 2001</i>
Residence: City	Ingelheim	State	Country	Germany	Citizenship	DE
Post Office Address	Wackernheimer Strasse 17					
Post Office Address						
City	Ingelheim	State	ZIP	55218	Country	Germany

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Case No. 1/1148

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DECLARATION		ADDITIONAL INVENTOR(S) Supplemental Sheet Page <u>2</u> of <u>3</u>				
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])		Family Name or Surname				
Manfred		GRAULICH				
Inventor's Signature	<i>Manfred Graulich</i>					Date <u>Oct 23. 2004</u>
Residence: City	Waldalgesheim	State	Country	Germany	Citizenship	DE
Post Office Address	Ringstrasse 32					
Post Office Address						
City	Waldalgesheim	State	ZIP	55425	Country	Germany
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])		Family Name or Surname				
Peter		SPECHT				
Inventor's Signature	<i>Peter Specht</i>					Date <u>Oct. 23. 2004</u>
Residence: City	Ober-Hilbersheim	State	Country	Germany	Citizenship	DE
Post Office Address	Neuwiese 9					
Post Office Address						
City	Ober-Hilbersheim	State	ZIP	55437	Country	DE
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])		Family Name or Surname				
Helmut		MEISSNER				
Inventor's Signature	<i>Helmut Meissner</i>					Date <u>Oct. 23. 2004</u>
Residence: City	Ingelheim	State	Country	Germany	Citizenship	DE
Post Office Address	Hallgarterstrasse 9					
Post Office Address						
City	Ingelheim	State	ZIP	55218	Country	Germany

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet
Page 3 of 3

Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])			Family Name or Surname			
Andreas			MATHES			
Inventor's Signature	<i>Andreas Mathes</i>				Date	<u>Feb. 23, 2004</u>
Residence: City	Ockenheim	State	Country	Germany	Citizenship	DE
Post Office Address	Am Sportfeld 2					
Post Office Address						
City	Ockenheim	State	ZIP	55437	Country	Germany
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])			Family Name or Surname			
Inventor's Signature					Date	
Residence: City		State	Country		Citizenship	
Post Office Address						
Post Office Address						
City		State	ZIP		Country	
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle [if any])			Family Name or Surname			
Inventor's Signature					Date	
Residence: City		State	Country		Citizenship	
Post Office Address						
Post Office Address						
City		State	ZIP		Country	

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